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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,523	01/13/2006	Dario ' Menegon	4284-0103PUS1	2048
2292 7590 05/16/2007 BIRCH STEWART KOLASCH & BIRCH PO BOX 747 FALLS CHURCH, VA 22040-0747			EXAMINER NDUBIZU, CHUKA CLEMENT	
			ART UNIT 3749	PAPER NUMBER
			NOTIFICATION DATE 05/16/2007	DELIVERY MODE ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

mailroom@bskb.com

**Office Action Summary**

Application No.

10/564,523

Applicant(s)

MENEGON, DARIO

Examiner

Chuka C. Ndubizu

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on Through 4/20/2006.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,2 and 4-15 is/are rejected.
- 7) ☐ Claim(s) 3 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 13 January 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application                       |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)<br>Paper No(s)/Mail Date <u>011306, 042006</u> | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Specification***

The disclosure is objected to because of the following informalities: On page 8 line 5 reference number 3 was used for the upright instead of reference number 2.

Appropriate correction is required.

### ***Claim Objections***

Claim 3 is objected to under 37 CFR 1.75(c) as being in improper form because a multiple dependent claim should refer to other claims in the alternative only. See MPEP § 608.01(n). Accordingly, the claim 3 has not been further treated on the merits.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

1. Claims 1, 4, 5, 6, 9, 11, 14 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harneit 6,293,272 in view of Perez III 5,467,692. Harneit teaches the invention as claimed (figs. 1 and 2), A cooking device with a modular support structure of the hob, comprising, hob support structure (see fig 1) including, a frame where, at the lower end, a bottom 7 is fitted, surrounded around the perimeter by at least one vertical curtain panel 3, 5, also anchored to said frame, and a door 19, 21, hinged at the side (column 3 line 2, 3); wherein, at the upper part of the modular structure, the interchangeable hob 63, 35 is fitted onto the upper ends of said frame, comprising a circular plate (bottom of 87), the heating and cooking means 45, and the respective controls 53 for controlling the working temperature of the heating and cooking means, positioned along the front of the hob assembly (column 3 line 14-16); wherein a ring element (top edge of 43) is positioned projecting from at least one hob support structure; wherein two hob support structures 35 and 63 are joined together by connecting means; wherein wheels 75, 73 are fitted at each lower end of the frame; wherein the bottom has openings at the rear 65, 81 for the passage of possible connections for the electric connection for the supply of the supported accessories, and it is fixed along the side ends at the bottom of each support structure, while the upper connecting top has its side ends made in such a way as to have two opposed semicircular seats 43, each one of which ends with two opposing end peninsulas near 79, said peninsulas being engaged at the upper end of the frame; the device further comprising, two hob support structures 35, 63 joined together by connecting means, has an intermediate area intended for an oven 51, a simple compartment with shelves

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57, these being possibly positioned between said two support structures, each for a corresponding hob.

However, Harneit does not teach a cooking device comprising, at least three tubular uprights; wherein said panel and said door are curved, wherein at least one upright has an adjustable foot at the lower end; wherein the circular plate, which forms the hob and supports the heating and cooking means, has along a sector of the same, the respective controls for controlling the working temperature of the heating and cooking means; wherein the circular plate which forms the hob and supports the heating and cooking means, has two semicircular seats, each of which surrounds the profile of the respective upright to which it is joined.

Perez discloses an outdoor cooker and smoker (figs. 1-13) comprising, a cooking hob 12, including at least three tubular uprights 24; curved curtain panel 58; curved door 64; heating and cooking means 20 wherein at least one upright has an adjustable foot at the lower end (column 7 line 14-16); wherein the circular plate 18, which forms the hob and supports the heating and cooking means, has along a sector of the same, the respective controls 30 for controlling the working temperature of the heating and cooking means; wherein the circular plate 18 which forms the hob and supports the heating and cooking means, has two semicircular seats, each of which surrounds the profile of the respective upright 44 to which it is joined (see fig. 10).

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Harneit's cooking device by including all the limitations taught by

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Perez and recited above in order to provide a cooking device where the cooking hobs can use different types of heat source as taught by Harneit (column 2 line 33-37).

2. Claims 7, 8 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harneit in view of Perez and further in view of Poyer 3,032,027. Harneit in view of Perez teaches the invention as claimed and as discussed above.

However, Harneit in view of Perez does not teach a cooking device comprising uprights, wherein at each end of each upright, (upper and lower), there is a double shoulder, one diametrically opposite the other, where at least one shoulder has a slot for receiving transversely an anchoring tab, which projects with respect to said upright with a wide supporting end at a right angle to said upright; wherein said anchoring tab is a substantially flat metal element with the protruding end wider than the opposite end which is fixed to the shoulder, wherein at the upper end of the uprights it provides peripheral support for the circular plate which forms the hob; wherein the curtain panels of the support structure are joined to the uprights by connecting flanges with a "U" shape.

Poyer discloses a portable cooking device (figs. 1-4) comprising, a heating unit (hob) 11 supported by uprights 14; wherein trays are attached to the uprights by U-shaped flanges 55; member 43 with a shoulder, which has a slot 46; an anchoring tab 90; wherein said anchoring tab is a substantially flat metal element with a protruding end (see fig 2) wider than the opposite end which is fixed to the shoulder, where at the

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upper end of the upright it provides peripheral support for the plate (bottom of 11) which forms the hob.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Harneit in view of Perez's cooking device by including all the limitations taught by Poyer and recited above in order to provide a cooking device where the cooking hobs can use different types of heat source as taught by Harneit (column 2 line 33-37).

3. Claims 2, 12 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Harneit in view Perez and further in view of Fisenko 6,615,821. Harneit in view of Perez teaches the invention as claimed and as discussed above.

However, Harneit in view of Perez does not teach a cooking device comprising, a ring element positioned projecting from at least one hob support structure surrounding the furnishing accessory; wherein, a flat arm is fixed against the shoulders of the upper end of at least one of the uprights at a right angle to the respective upright, wherein the arm projects towards the outside of the support structure of the first furnishing accessory for cooking and supports a ring which surrounds, on the outside, the upper end of the support structure of the furnishing accessory for cooking.

Fisenko discloses a cooking device (figs 1-3) comprising, a ring element 46 positioned projecting from at least one hob support structure surrounding the furnishing accessory (fig 1); wherein, a flat arm 48 is fixed against the shoulders of the upper end of the structure at a right angle to the structure, wherein the arm projects towards the

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outside of the support structure and supports a ring 46 which surrounds, on the outside, the upper end of the support structure.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Harneit in view of Perez's cooking device by including all the limitations taught by Fisenko and recited above in order to provide a cooking device with improved safety measures to reduce the risk of accidental burns as taught by Fisenko (column 1 line 34-36).

4. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Harneit in view of Perez and further in view of Hamilton et al 5,979,431. Harneit in view of Perez teaches the invention as claimed and as discussed above.

However, Harneit in view of Perez does not teach a cooking device wherein the combined support structure is composed of a first and a second support structure, each of which is without the curtain panel on the side of the two structures that face each other; and wherein the two structures are connected to each other by a bottom which connects the two support structures at the lower part, and by a top which connects said two support structures at the upper part, and a back.

Hamilton disclose a portable cooking device (fig 1) comprising, a combined support structure composed of a first and a second support structure (left side and right side), each of which is without the curtain panel on the side of the two structures that face each other; and wherein the two structures are connected to each other by a



bottom (bottom of 30) which connects the two support structures at the lower part, and by a top 28 which connects said two support structures at the upper part, and a back.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify Harneit in view of Perez's cooking device by including all the limitations taught by Hamilton and recited above in order to provide a cooking device which is sturdy and has solid construction as taught by Hamilton (column 2 line 8,9).

### ***Conclusion***

The prior art made of record in the attached USPTO 892 and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chuka C. Ndubizu whose telephone number is 571-272-6531. The examiner can normally be reached on Monday - Friday 8.30 - 4.30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Kenneth Rinehart can be reached on 571-272-4881. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic

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Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



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